



TEXAS DEPARTMENT OF INSURANCE

Division of Workers' Compensation - Medical Fee Dispute Resolution (MS-48)

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MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

GENERAL INFORMATION

Requestor Name

Salvador P. Baylan, M.D.

Respondent Name

New Hampshire Insurance Company

MFDR Tracking Number

M4-16-2987-01

Carrier's Austin Representative

Box Number 19

MFDR Date Received

May 31, 2016

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary: "Please review procedure code **99203** for full reimbursement. CPT modifier 25 added to the E/M code on the claim as service was beyond the usual preoperative work of the EDX testing performed on the same day."

Amount in Dispute: \$350.00

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary: "The global period days for the procedure 95908 is n [sic] XXX, therefore, based on correct coding rules, an Evaluation and Management Code should not have been appended."

Response Submitted by: Liberty Mutual Insurance

SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
February 4, 2016	Evaluation & Management, new patient (99203)	\$350.00	\$164.43

FINDINGS AND DECISION

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 and applicable rules of the Texas Department of Insurance, Division of Workers' Compensation.

Background

1. 28 Texas Administrative Code §133.307 sets out the procedures for resolving medical fee disputes.
2. 28 Texas Administrative Code §134.203 sets out the fee guidelines for professional medical services.
3. The insurance carrier reduced payment for the disputed services with the following claim adjustment codes:
 - B12
 - X457 – No significant identifiable evaluation and management service has been documented.
 - 193 – Original payment decision is being maintained. Upon review, it was determined that this claim was processed properly.

Issues

1. Are the insurance carrier's reasons for denial of payment supported?
2. What is the maximum allowable reimbursement (MAR) for the disputed service?
3. Is the requestor entitled to additional reimbursement?

Findings

1. The requestor is seeking reimbursement for procedure code 99203-25. The insurance carrier denied disputed services with claim adjustment reason code X457 – "NO SIGNIFICANT IDENTIFIABLE EVALUATION AND MANAGEMENT SERVICE HAS BEEN DOCUMENTED." The disputed services represent a professional medical service subject to the fee guidelines found in 28 Texas Administrative Code §134.203, which states in relevant part:

- (b) For coding, billing, reporting, and reimbursement of professional medical services, Texas workers' compensation system participants shall apply the following:
 - (1) Medicare payment policies, including its coding; billing; correct coding initiatives (CCI) edits; modifiers; bonus payments for health professional shortage areas (HPSAs) and physician scarcity areas (PSAs); and other payment policies in effect on the date a service is provided with any additions or exceptions in the rules.

The insurance carrier argued that concurrently billed procedure code 95908 has a global status of "XXX" and therefore, "based on correct coding rules, and Evaluation and Management Code should not have been appended." Chapter I of the General Correct Coding Policies for *National Correct Coding Initiative Policy Manual for Medicare Services*, section D, states, in relevant part:

Many of these "XXX" procedures are performed by physicians and have inherent pre-procedure, intra-procedure and post-procedure work usually performed each time the procedure is completed. This work should never be reported as a separate E&M code ... **With most "XXX" procedures, the physician may, however perform a significant and separately identifiable E&M service on the same date of service which may be reported by appending modifier 25 to the E&M code** [emphasis added]. This E&M service may be related to the same diagnosis necessitating the performance of the "XXX" procedure but cannot include any work inherent in the "XXX" procedure, supervision of others performing the "XXX" procedure, or time for interpreting the result of the "XXX" procedure. Appending modifier 25 to a significant, separately identifiable E&M service when performed on the same date of service as an "XXX" procedure is correct coding.

Review of the American Medical Association CPT Manual for procedure code 95908 finds that "these codes can be used in addition to an evaluation and management service when medical record documentation supports the assignment of the E/M code." Concurrently billed procedure code 95886 also does not preclude the billing of an evaluation and management service. The division concludes that the assignment of an evaluation and management code is supported, based on submitted documentation. The insurance carrier's denial reason is not supported. The disputed services will therefore be reviewed per applicable Division rules and fee guidelines.

2. 28 Texas Administrative Code §134.203(c) states,

To determine the MAR for professional services, system participants shall apply the Medicare payment policies with minimal modifications.

- (1) For service categories of Evaluation & Management, General Medicine, Physical Medicine and Rehabilitation, Radiology, Pathology, Anesthesia, and Surgery when performed in an office setting, the established conversion factor to be applied is \$52.83...
- (2) The conversion factors listed in paragraph (1) of this subsection shall be the conversion factors for calendar year 2008. Subsequent year's conversion factors shall be determined by applying the annual percentage adjustment of the Medicare Economic Index (MEI) to the previous year's conversion factors, and shall be effective January 1st of the new calendar year...

The Medicare fee is the sum of the geographically adjusted work, practice expense and malpractice values multiplied by the conversion factor. The MAR is calculated by substituting the Division conversion factor. The Division conversion factor for 2016 is \$56.82.

For procedure code 99203 on February 4, 2016, the relative value (RVU) for work of 1.42 multiplied by the geographic practice cost index (GPCI) for work of 1.000 is 1.420000. The practice expense (PE) RVU of 1.47 multiplied by the PE GPCI of 0.920 is 1.352400. The malpractice (MP) RVU of 0.15 multiplied by the MP GPCI of 0.822 is 0.123300. The sum of 2.895700 is multiplied by the Division conversion factor of \$56.82 for a MAR of \$164.43.

3. The total MAR for the disputed service is \$164.43. The insurance carrier paid \$0.00. A reimbursement of \$164.43 is recommended.

Conclusion

For the reasons stated above, the Division finds that the requestor has established that additional reimbursement is due. As a result, the amount ordered is \$164.43.

ORDER

Based on the submitted information, pursuant to Texas Labor Code Sec. 413.031 and 413.019 (if applicable), the Division has determined that the requestor is entitled to additional reimbursement for the services in dispute. The Division hereby ORDERS the respondent to remit to the requestor the amount of \$164.43, plus applicable accrued interest per 28 Texas Administrative Code §134.130, due within 30 days of receipt of this Order.

Authorized Signature

_____	_____ Laurie Garnes _____	_____ October 28, 2016 _____
Signature	Medical Fee Dispute Resolution Officer	Date

YOUR RIGHT TO APPEAL

Either party to this medical fee dispute has a right to seek review of this decision in accordance with 28 Texas Administrative Code §133.307, 37 *Texas Register* 3833, applicable to disputes filed on or after June 1, 2012.

A party seeking review must submit a **Request to Schedule a Benefit Review Conference to Appeal a Medical Fee Dispute Decision** (form **DWC045M**) in accordance with the instructions on the form. The request must be received by the Division within **twenty** days of your receipt of this decision. The request may be faxed, mailed or personally delivered to the Division using the contact information listed on the form or to the field office handling the claim.

The party seeking review of the MFDR decision shall deliver a copy of the request to all other parties involved in the dispute at the same time the request is filed with the Division. **Please include a copy of the *Medical Fee Dispute Resolution Findings and Decision*** together with any other required information specified in 28 Texas Administrative Code §141.1(d).

Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.